DEPARTMENT OF HEALTH & HUMAN SERVICES Health Care Financing Administration

7500 SECURITY BOULEVARD
BALTIMORE MD 21244-1850

MAR 16 1998

Douglas Porter
Deputy Director
Medical Care Services
714 P Street, Room 1253
Sacramento, California 95814

Dear Mr. Porter:

Thank you for your March 4th response regarding your State Children's Health Insurance Program under Title XXI of the Social Security Act. I want to provide you with the Department's decisions concerning several substantive issues in your Title XXI State Plan submission that we have previously discussed. Specifically, these concern the administrative vendor contract, the cost sharing of the Family Value Packages (FVP), amount of copayments, and administrative costs. Additionally, further clarification is necessary regarding some of your responses.

As you know, under Section 2106(c) of the Social Security Act, HCFA must either approve, disapprove, or request additional information on a proposed Title XXI State Plan within ninety days. This constitutes our notification that specified additional information is needed in order to fully assess the concerns raised in this letter. The 90-day review period has been stopped by this request and will resume as soon as a substantive response to all of the enclosed questions is received. We hope that your response to this letter will substantially address all the remaining issues so that we will be in a position to approve California's State plan. These issues are critical to plan approval under the statute and, therefore, if we cannot reach agreement we will be forced to disapprove the plan as submitted.

Section 4. Eligibility Standards and Methodology

Section 4.3

1. Administrative Vendor Contract

Our primary concern has been the potential conflict of interest that would result, should the administrative vendor contract be awarded to a health plan participating in the Healthy Families program. Our understanding is that the contractor is not counseling and referring beneficiaries to health plans and sufficient firewalls are in place to separate health plan operations from administrative vendor operations to prevent any conflicts of interest should the contract be awarded to a health plan. Based on this, we would not object to the use of the administrative vendor as long as the above conditions are met.

2. Application Assistance Fee

Under the Title XXI statute, outreach activities include informing families with children likely to be eligible for Title XXI of the availability of the program and assisting them in applying
to such a program. Therefore, the Department approves the State's request to pay persons in non-Medicaid outstation locations (e.g., insurance brokers and insurance agents) the $25 application assistance fee from MRMIB for assisting with applications that result in the enrollment of a child into either Title XIX or Title XXI as a result of the State's joint application process. Furthermore, the Department also approves the State's request to pay persons in Medicaid outstation locations the $25 application assistance fee from DHS for assisting with applications that result in the enrollment of a child into either Title XIX or Title XXI as a result of the State's joint application process.

HHS would like to clarify, however, that the current principles of cost allocation (as described in the Office of Management and Budget's Circular A-87 and other appropriate HHS documents) apply to all non-outreach administrative expenditures for joint Title XIX/Title XXI activities. In addition, as with all Federally funded public programs, the State will need to submit its administrative payment methodologies to HHS as part of the State's cost allocation plan.

Section 4.4.1

3. Resource Disregard

In our last letter, we asked you to consider establishing a threshold amount related to your resource disregard for determining who would be newly eligible for enhanced payments. Based on your reply, we have reexamined the process and have determined that the two additional questions on the Medi-Cal portion of the application are sufficient for identifying children who are newly eligible for the enhanced match as a result of the resource disregard.

4. Income Disregard

Federal law precludes certain income from being counted in determining eligibility under programs supported by Federal matching funds (e.g., Agent Orange payments). Please provide the Department with an assurance that you will not count such income under the Healthy Families program when determining eligibility.

Section 6. Coverage Requirements for Children's Health Insurance

Section 6.1

5. A.I.M. Program

As discussed previously, Title XXI requires that you submit a copy of the actuarial analysis of the benefit package for this program that shows it to be at least actuarially equivalent to your benchmark plan.

Section 8. Cost Sharing and Payment

Section 8.2.1

6. Family Value Package (FVP)

We appreciate your desire to provide additional choice to enrollees in health plan selection. Under your proposal, enrollees would be able to elect a health plan in a Family Value Plan, which meets all cost sharing requirements of Title XXI, or elect another health plan that has the same benefit package but has higher cost sharing. While this may give certain enrollees an additional choice of providers, it violates the cost sharing protections that are included in the Title XXI statute because some children would be liable for cost-sharing in excess of statutory limits. In addition, the Department is concerned that adverse selection could create a two-tiered system, in which the most impoverished, and therefore often most at risk, children would enroll in the lower cost FVP plans. Over time, this could jeopardize the financial health of the family value plans and their ability to deliver required benefits. Therefore, please provide the Department with information regarding how the plan will assure that the cost sharing for all program participants is within the Title XXI allowable limits. In addition, please provide a description of the system that will assure that copayments will not exceed the 5% of family income for all covered services (e.g., dental).

We will be addressing this issue in the next set of Questions and Answers regarding the Children's Health Insurance Program.

7. Copayment Amounts

You have proposed a $5 copayment for managed care visits and have asked for our guidance regarding how this copayment conforms with the guidelines we issued on February 13. The cost sharing guidelines issued on February 13 addressed the allowable inflation adjustments based on fee-for-service rates and did not address the managed care setting.

In managed care settings, the lack of a specific dollar amount associated with a service makes it difficult to use the fee-for-service schedule. Therefore, we are offering the following new guidance for the managed care setting. First, States are strongly encouraged to provide all services to beneficiaries with family incomes at or below 150 percent of the Federal Poverty Level (FPL) without imposing copayments. However, States are permitted to impose up to a $5 copayment, although they should consider imposing lower copayments for services that may cost less than $80. For example, for prescription drugs, States should consider charging less than $5 copayments if the prescriptions are generally low cost to fill. Additionally, there should be one copayment for a bundled set of services, rather than copayments imposed for each service rendered during a physician visit. States may also vary copayments to encourage certain service use (e.g., lower copayments for generic drugs). We will be addressing this issue in the next set of CHIP Questions and Answers as well.

Section 9. Strategic Objectives and Performance Goals for the Plan Administration

Section 9.10

8. Vaccine for Children Program (VFC)

You have asked whether you can use the VFC program to pay for immunizations for children enrolled in Healthy Families. The Department will be issuing further guidance on this issue.

As you know, the VFC program was established, by statute, to serve children who are enrolled in Medicaid or are uninsured. American Indian/Alaskan Native children whose insurance does not cover immunizations are also eligible for VFC. However, children who are under-insured for immunization coverage can only receive immunizations at Federally Qualified Health Centers or rural health clinics.

Children who are newly eligible for Medicaid under Title XXI are VFC eligible, as are all other children eligible for Medicaid. However, States who have designated a separate State insurance program under CHIP (S-CHIP), such as the Healthy Families Program, cannot serve Title XXI beneficiaries enrolled in their S-CHIP plan through the VFC program. These children are neither "Medicaid eligible" nor "uninsured." Under Title XXI, however, States must cover age appropriate immunizations for all enrolled children including children enrolled in their S-CHIP plan. We interpret this requirement to include coverage of all vaccines recommended by the Advisory Committee on Immunization Practices (ACIP).

States are encouraged to work through their State Health Departments and their State Immunization Programs to determine the most effective manner to purchase vaccines for S-CHIP. States may use Title XXI dollars to purchase vaccine for Title XXI enrolled children at Federal contract price by making these children "State vaccine-eligible."

9. Administrative Costs

Your proposal includes administrative costs of approximately 25 percent. The Title XXI legislation is clear that administrative costs cannot exceed 10 percent of the State's total computable expenditures under Section 2105(a) of the Social Security Act (the Act) and the total computable expenditures for which the enhanced FMAP is available under Section 1905(u)(2) and (u)(3) of the Act. Therefore, the State will have to confirm in its plan that it will not request Federal matching payments on costs that exceed the 10 percent limit. Please be assured, however, that we fully understand your financial needs in establishing a new program and the pressure for increased administrative funds in the early years of a new program . This is an issue that affects not only California, but also several other States. We appreciate the gravity of your concern and are open to possible legislative options that would remedy this issue in the future. Regrettably, this does not address the immediate concern.

The members of the review team would be happy to answer any questions you may have in regard to this letter and to assist your staff in formulating a response. Please send your response, either on disk or electronically, as well as in hard copy to Kathleen Farrell, project officer for California's Title XXI proposal, with a copy to Richard Chambers, Associate Administrator for the HCFA Region IX Division of Medicaid. Ms. Farrell's internet address is KFarrell@HCFA.GOV. Her mailing address is:

Division of Integrated Health Systems
Health Care Financing Administration
Mail Stop C3-18-26
7500 Security Boulevard
Baltimore, Maryland 21244-1850

We appreciate the efforts of your staff and share your goal of providing health care to low-income, uninsured children through Title XXI. If you have questions or concerns regarding the matters raised in this letter, your staff may contact either Ms. Farrell at (410) 786-1236 or Mr. Chambers at (415) 744-3568. They will provide or arrange for any technical assistance you may require in preparing your response. Your cooperation is greatly appreciated. We look forward to continuing to work with you to provide health care coverage to uninsured, low-income children in California.

Sincerely,

Richard Fenton

Richard Fenton
Deputy Director
Family and Children's Health Programs Group
Center for Medicaid and State Operations

cc: ARA, DSMO, Region IX